



COUNTY OF LOS ANGELES
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Syn. No. 94
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TO: SUPERVISOR ZEV YAROSLAVSKY, Chairman
SUPERVISOR GLORIA MOLINA
SUPERVISOR YVONNE BRATHWAITE BURKE
SUPERVISOR DON KNABE
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: LLOYD W. PELLMAN *Imfor*
County Counsel

RE: **Proposed Policy Concerning Legality of Board Directives**

This is to report on the following recommendation by Supervisor Yaroslavsky which your Board referred to this office and the Board's independent counsel, Brown, Winfield & Canzoneri for review:

"Instruct the Chief Administrative Officer and County Counsel to prepare amendments to County policy to provide that no department head, employee or consultant shall be required to obey any directive from the Board of Supervisors that would violate any provision of Federal, State or local law in pursuit of any County objective; and to provide that this policy may be used by any department head, employee or consultant as a defense against disciplinary action imposed for refusing to follow such a directive."

Enclosed, for your Board's consideration, is a written policy in response to Supervisor Yaroslavsky's recommendation.

The policy, which has been drafted with the assistance of the Board's independent counsel, is consistent with existing state law. (See Parrish v. Civil Service Commission of the County of Alameda (1967) 66 Cal 2d 260, 264 ["Insubordination can rightfully be predicated only upon a refusal to obey some order which a superior officer is entitled to give and entitled to have obeyed."]).

It would also be complementary to existing state and County anti-retaliation, or so-called "whistle-blower" laws which prohibit employers from retaliating against employees or other persons who report violations of law. (See, e.g., Los Angeles County Code, Section 5.02.060; California Labor Code Section 1102.5.)

LWP:DMM:mr

Enclosure

c: David E. Janssen
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer
Board of Supervisors

Michael J. Henry
Director of Personnel

POLICY REGARDING LEGALITY OF BOARD DIRECTIVES

Actions of the Board of Supervisors are presumed to be legal and are to be implemented and obeyed by County department heads, employees, and consultants. However, it is the policy of the Board that department heads, employees, or consultants are not required to obey a Board directive that violates federal, state, or local law. In any such case, the County Counsel shall be promptly notified, in writing, through a department head, of the perceived illegality of the directive. No department head, employee, or consultant shall be disciplined for disobeying a directive which is illegal, and who gave prompt notification of the directive's perceived illegality. This policy shall not affect the County's ability to test or challenge the constitutionality of any law or to determine the legality of any action through a validation suit.